

September 18, 2003  
 Little Hoover Commission  
 Acupuncture regulation project

**Recommended plan of action  
 for addressing the six questions before the Commission.**

Submitted by Matthew D. Bauer, L.Ac.

Dear Commissioners,

Thank you for your consideration of the questions pertaining to the regulation of the acupuncture profession in California. I can appreciate the difficulties you have encountered in attempting to grasp the essence of the issues before you. I have been immersed in these matters for nearly 20 years and still have trouble separating the salient questions from the emotional, political infighting typical within stalemated disagreements of all stripes. The difficulty of seeing solutions to the six questions before this Commission are compounded by the manner in which the issues overlap and connect together thus making it difficult to consider each issue one by one. On top of that, we have two different camps, each with deeply held beliefs and agendas for the "best course" to take for the future.

I have come to believe however, that there is a solution that will allow the separation of these issues while also allowing them to be considered as a whole. Just as importantly, this plan of action would also allow both sides to salvage most of their agendas with minimal loss of face. To this end, I urge the Commission to give every consideration to the development of a tiered licensing system that would allow for multiple levels of training, scope of practice (SOP), and title designation for the various specialized healing systems employed in traditional Oriental Medicine.

Before explaining what I believe are the many advantages of such a system in addressing the issues before this Commission, I wish to point out that such a system was recently put into place in British Columbia, Canada, after years of debate involving many of the same dichotomous views involved in California today. They also negotiated reciprocity agreements between the three provinces. While I am not suggesting we should exactly duplicate the British Columbia model here, I feel a productive plan can be molded from this basic model.

What our neighbors to the north did was to establish four separate, officially recognized health care professions, each with their own designated SOP, education requirements, and titles. Registered Acupuncturists (RAc) have only acupuncture under their SOP and require 3 years of education. Registered Traditional Chinese Medicine Herbalists (RTCM-H) have only Chinese herbal remedies under their SOP and also require 3 years of education. Registered Traditional Chinese Medicine Practitioners (RTCM-P) have acupuncture, Chinese herbs, and various other TCM modalities, i.e. cupping, tui-na, nutrition, etc. under their SOP and require 4 years of education. Doctors of Traditional Chinese Medicine (Dr.TCM) have the same SOP as RTCM-Ps with the addition of being able to accept referrals from the other three TCM specialties and medical doctors. This profession requires 5 years of education. (See chart below)

**REGISTRATION OF TCM PRACTICE IN BRITISH COLUMBIA, CANADA**

| Title   | SOP         | SOP   | SOP   | SOP   | Years of TCM Education required |
|---|-------------|-------|---|---|---------------------------------|
|   | Acupuncture | Herbs | Full TCM (acupuncture, herbs, tui-na, Nutrition, etc. | May accept Referrals from Other TCM Practitioners and M.D.s |                                 |
| Acupuncturists (RAc)                            | X           |       |   |   | 3                               |
| Herbalists (RTCM-H)                             |             | X     |   |   | 3                               |
| Practitioner (RTCM-P)                           | X           | X     | X   |   | 4                               |
| Doctor of Traditional Chinese Medicine (Dr.TCM) | X           | X     | X   | X   | 5                               |

## ADVANTAGES OF ADOPTING A SIMILAR MODEL IN CALIFORNIA

- Allows the development of a higher level Oriental Medical (OM) professional with expanded training (near 4,000 hours), broader SOP (point injection, disability evaluations), and Doctor title (Dr.TOM?).
- Allows current L.Ac.s to maintain their title and SOP without need for further education.
- Addresses concerns of higher cost of education by allowing students to chose the level they seek to practice at.
- Provides consumers with a broader choice of options when seeking Oriental Medical services thus allowing market forces to help determine optimal future licensing directions.
- Affords greater opportunities for “matching” education and SOP between California and national systems thus allowing opportunities for reciprocity between the two.
- Allows involved parties to essentially keep what they currently have and obtain what they seek. The only thing this approach does not afford either party is the obtaining of their goals at the exclusion of the other party obtaining theirs.

Of course, there are many details that will need to be worked out such as exact titles, development of different core curriculum standards and SOPs, issues of just where national accreditation and examination agencies may either be directly plugged into the California system or could tailor their programs to fit California’s defined needs, etc. I have every confidence however, that the individuals associated with these organizations and agencies, are more than up to the task of working out these details IF THE POLITICAL WILL EXISTS TO DO SO. I am also quite hopeful that, given time and the encouragement of this Commission, both sides can find that will and see that this plan affords the best solution.

### **Primary Care**

A major area of concern that may arise when considering the prospect of different levels of licensing is that of Primary Care. What levels of training and licensing will qualify as Primary Care? As there is no agreed upon legal definition of primary care that fits all circumstances in which that phrase is used, building arguments based on this phrase is suspect at best. There has been a tendency to equate primary care to the ability to treat patients without the need to have a referral from other health care professionals (M.D., D.O., etc.) This tendency goes back to the days when Acupuncturists were required to have their patients sign a form stating they had been seen by an M.D. or D.O. When this requirement was dropped, the new acupuncture legislation spelling this out used the phrase “primary health care profession”. The question of such a designation being required in order to treat patients without referral was largely made moot with last year’s passage of SB577. That Bill made it legal for anyone unlicensed in California to treat patients without the need for referral as long as they satisfy some basic informed consent requirements. In other words, Acupuncturists should not be seen as needing a primary care designation to treat patients without referral as any unlicensed person is now legally able to do so. Issues of primary care can be focused on levels of training and SOP rather than concerns about treating without referral.

I again thank the Commissioners for their time and consideration and offer my help in these matters in any way I can.

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